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COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT
COMMITTEE ON PROFESSIONAL RESPONSIBILITY
FOR CLERKS OF THE COURTS

Docket No. 91-036

In the Matter of JANET ROWE DUGAN

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FORMAL CHARGES

The Committee on Professional Responsibility for Clerks of the Courts ("Committee"), pursuant to Supreme Judicial Court Rule 3:13 and under Committee Rule 7(E)(4), issues these Formal Charges against Janet Rowe Dugan, Clerk-Magistrate of the Northampton Division of the District Court Department of the Trial Court.

The Committee alleges that Clerk-Magistrate Dugan has engaged in conduct that constitutes wilful misconduct in office, conduct that is prejudicial to the administration of justice, conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute, and conduct that violates the Code of Professional Responsibility for Clerks of the Courts set forth in Rule 3:12 of the Rules of the Supreme Judicial Court, and other applicable statutes and rules, as follows:

1. FIRST CHARGE

- 1.1 Clerk-Magistrate Dugan knowingly falsified, destroyed and failed to keep, or instructed others to falsify, destroy and fail to keep, true and accurate court records, books and papers appertaining to, filed or deposited in the Northampton District Court Clerk's office concerning certain requests for show cause hearings.
- 1.2 The following are examples of the conduct described in paragraph 1.1 above.
 - 1.2.1 On or about August 22, 1990, in the Northampton Clerk-Magistrate's office, with Clerk-Magistrate Dugan's knowledge and approval, a Framingham attorney backdated a request for show cause hearing on a criminal charge against his client. (Docket no. 9045 CR 2066) and then Clerk-Magistrate Dugan changed the date stamp and stamped the document so as to falsely indicate that it was received in June 1990. On August 22,

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1990, Clerk-Magistrate Dugan attended and participated in a hearing before a district court judge at which the attorney moved to dismiss the complaint that had issued, alleging that the Clerk's office had mislaid the defendant's timely request for a show cause hearing and thus the defendant had not been granted the show cause hearing he had requested. The criminal complaint was dismissed on that date by the judge.

1.2.2 On or about April 27, 1990, Clerk-Magistrate Dugan instructed a clerk in the Northampton District Court Clerk's office to destroy the original criminal complaints prepared in the following matters and to retype the complaints with a back-dated arraignment date, and Clerk-Magistrate Dugan then wrote across each complaint "No complainant to sign \ Dismissed" and dated and signed the notation of dismissal.

1.2.2.1 9045 CR 928

1.2.2.2 9045 CR 931

1.2.2.3 9045 CR 933

1.2.2.4 9045 CR 774

1.2.3 On or about March 5, 1990, Clerk-Magistrate Dugan instructed a clerk in the Northampton District Court Clerk-Magistrate's office to destroy the original complaints prepared in the following matters and to retype the complaints with a back-dated arraignment date, and Clerk-Magistrate Dugan then wrote across each complaint "No Complaint Signed \ Back to [or "redo as"] Show Cause \ J.R. Dugan \ Can Waive [or "can waive by mail"] \ See A. Sattler".

1.2.3.1 9045 CR 492

1.2.3.2 9045 CR 362

1.2.3.3 9045 CR 114

1.3 THEREFORE, the Committee alleges that, by the foregoing conduct, Clerk-Magistrate Dugan has engaged in wilful misconduct in office; conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; conduct that violates G.L. c. 218, § 12; and conduct that, to the extent it continued on or after April 1, 1990, violated Supreme Judicial Court Rule 3:12, Canons 2, 3(A)(1), and 4.

2.

SECOND CHARGE

- 2.1 Clerk-Magistrate Dugan dishonestly disposed of certain civil motor vehicle infractions and knowingly falsified or failed to keep, or instructed others to falsify or fail to keep, true and accurate court records, books and papers appertaining to, filed or deposited in the Northampton District Court Clerk's office concerning certain civil motor vehicle infractions.
- 2.2 From at least some time in 1988 until approximately June 1991, Clerk-Magistrate Dugan established and maintained a practice whereby she caused the hearings for certain civil motor vehicle infractions to be marked "rescheduled" on the hearing list for the date on which the hearings were originally to take place and then did not reschedule the hearings but, instead, without conducting a hearing, disposed of the citations by finding the alleged violators "not responsible" as of the date the hearings were originally to take place.
- 2.3 On information and belief, Clerk-Magistrate Dugan caused the following citations to be disposed of according to the practice described in paragraph 2.2:
 - 2.3.1 Court Docket No. 10624
 - 2.3.2 Court Docket No. 2517
 - 2.3.3 Court Docket No. 7420
 - 2.3.4 Court Docket No. 3461
 - 2.3.5 Court Docket No. 22135
- 2.4 On information and belief, the following citation was disposed of in the manner described in paragraph 2.2 above, except that the date of disposition on the citation predates the date on which the hearing was originally to have occurred:
 - 2.4.1 Court Docket No. 22551: marked "resch" on hearing list dated 1/17/91, citation marked "Not Resp" by Clerk-Magistrate Dugan and dated 1/14/91.
- 2.5 From at least some time in 1988 until approximately June 1991, Clerk-Magistrate Dugan established and maintained a practice whereby she scheduled or caused to be scheduled certain hearings on a special day for the purpose of marking the alleged violators' citations "not responsible" and then arranged for the police officers who wrote the citations not to attend these hearings. Clerk-Magistrate Dugan created or caused to be created by one or more members of her staff a list



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of individuals who had requested, or on whose behalf she decided to give, special consideration in the disposition of certain civil motor vehicle citations. Each individual on the list was assigned a code number and this code number was usually written on the special hearing list next to the docket number of the citation for which the individual had requested or was to be given special consideration.

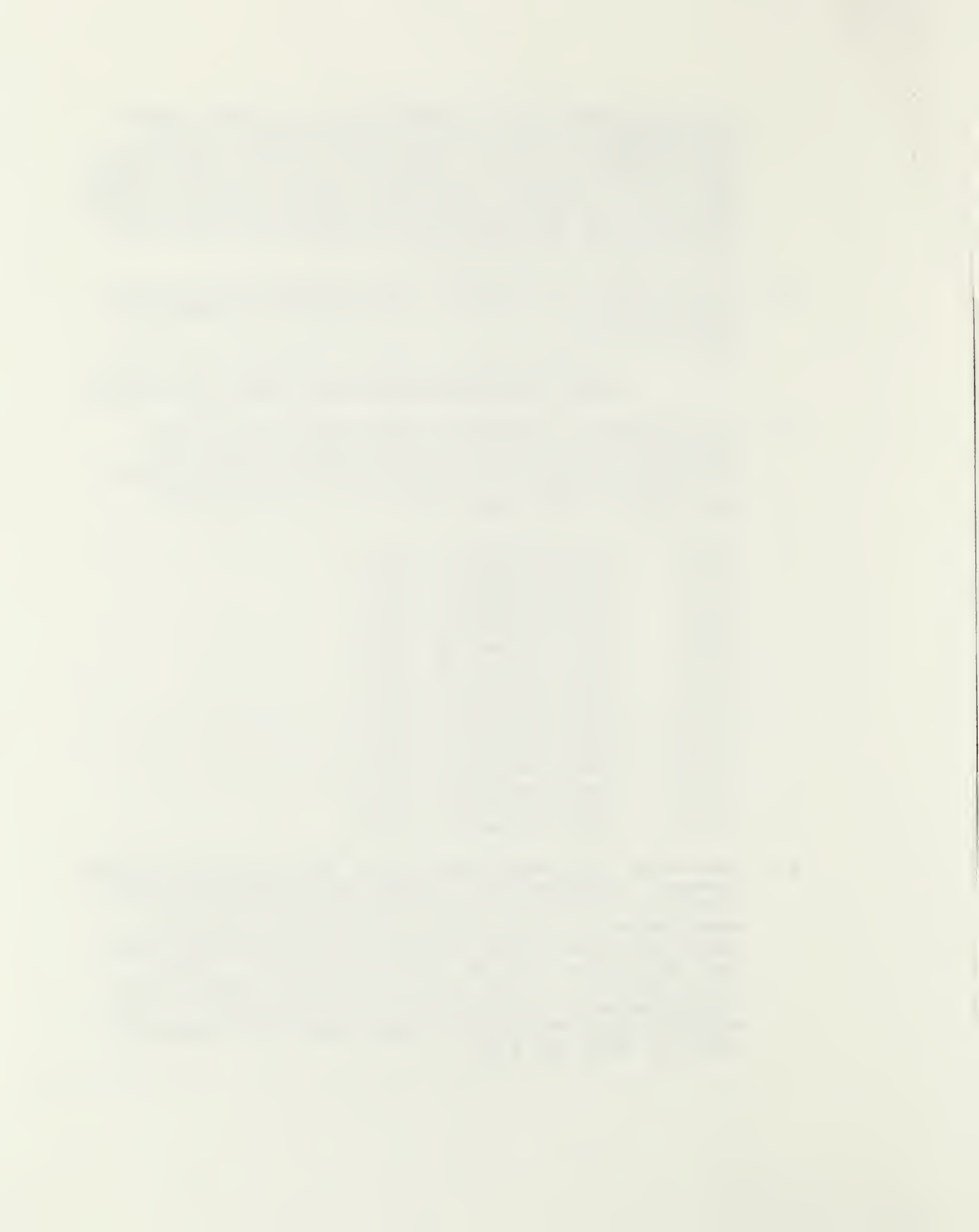
- 2.6 On information and belief, the following citation was one of those disposed of in the manner described in paragraph 2.5:

2.6.1 Court Docket No. 8272: violator found "Not Resp." by Clerk-Magistrate Dugan on 1/26/90.

- 2.7 On information and belief, Clerk-Magistrate Dugan directed that a list be created of the following citations, which were to be "heard" on Sunday, March 17, 1991 and were to be disposed of in the manner described in paragraph 2.5:

2.7.1 Court Docket No. 4486
2.7.2 Court Docket No. 3964
2.7.3 Court Docket No. 4877
2.7.4 Court Docket No. 5285
2.7.5 Court Docket No. 5323
2.7.6 Court Docket No. 5698
2.7.7 Court Docket No. 6278
2.7.8 Court Docket No. 4839
2.7.9 Court Docket No. 6652
2.7.10 Court Docket No. 8546
2.7.11 Court Docket No. 6225
2.7.12 Court Docket No. 10571
2.7.13 Court Docket No. 10426
2.7.14 Court Docket No. 10907
2.7.15 Court Docket No. 11412

- 2.8 THEREFORE, the Committee alleges that, by the foregoing conduct, Clerk-Magistrate Dugan has engaged in wilful misconduct in office; conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; conduct that violates G.L. c. 218, § 12, and G.L. c. 90C, §§ 3, 9, 10; and conduct that, to the extent it continued on or after April 1, 1990, violated Supreme Judicial Court Rule 3:12, Canons 2, 3(A)(1), 4(A) and 4(E).



THIRD CHARGE

- 3.1 Clerk-Magistrate Dugan failed to give the appearance of impartiality or failed to perform her duties impartially by conveying the impression that certain persons were in a special position to influence the Clerk-Magistrate by using the influence of her office to promote her business or personal interests, by failing to disqualify herself from serving in an adjudicative capacity in proceedings in which her impartiality might reasonably be questioned or by allowing her relationship with or personal feelings about certain individuals to affect the performance of her duties.
- 3.2 Examples of the conduct described in paragraph 3.1 include:
- 3.2.1 Beginning in or about August, 1988, as a result of disagreement over matters related to an estate of which she and a Northampton attorney were co-executors, Clerk-Magistrate Dugan orally instructed her staff on more than one occasion that when small claims documents prepared by the Northampton attorney were brought in to be filed they were to be put "at the bottom of the pile" and that all of the attorney's telephone calls were to be referred to Clerk-Magistrate Dugan.
- 3.2.2 Beginning in or about August 1988, as a result of disagreement over matters related to an estate of which Clerk-Magistrate Dugan was an executor and in which a Northampton attorney represented the primary beneficiary, Clerk-Magistrate Dugan orally instructed her staff on more than one occasion to put "to the bottom of the pile" any documents brought in for filing by or on behalf of the Northampton attorney or his partner and to give any requests by the attorney or his partner to Clerk-Magistrate Dugan for handling.
- 3.2.3 When the Northampton attorney's partner referred to in ¶3.2.2 was in the District Court Clerk's office on or about February 3, 1989, Clerk-Magistrate Dugan loudly told the clerks in the office that no one was to talk to the attorney without her permission.

- 3.2.4 As a result of Clerk-Magistrate Dugan's instruction referred to in paragraph 3.2.2 above, when the attorney's partner referred to in ¶ 3.2.2 went to the District Court Clerk's office on or about January 13, 1989, to get a document relative to a non-impounded 209A order, the staff kept the attorney's partner waiting and called Clerk-Magistrate Dugan. Clerk-Magistrate Dugan did not allow the staff member to give the requested document directly to the attorney's partner and, instead, told the staff member to bring the document over to the Probate Court.
- 3.2.5 As a result of Clerk-Magistrate Dugan's animosity toward the Northampton attorney and his partner referred to in ¶ 3.2.2, when a secretary in their office came in to the District Court Clerk's office in or about August 1988, Clerk-Magistrate Dugan yelled at her and refused to accept the papers she had brought for filing.
- 3.2.6 Between approximately late April 1990, and approximately May 11, 1990, Clerk-Magistrate Dugan attempted to influence the outcome of a criminal complaint, Docket No. 8945 CR 4799, against the defendant for the apparent reason that the defendant was a neighbor of a state legislator. Clerk-Magistrate Dugan made at least one attempt unilaterally to change the trial date of this complaint. Clerk-Magistrate Dugan also sought "help" from a police officer from the University of Massachusetts and an assistant district attorney on this criminal complaint. On one or more occasions during this period, Clerk-Magistrate Dugan told the police officer that the University of Massachusetts Police Department would never be reclassified to Group 4 retirement, implying that the reclassification was linked to whether the officer "helped" her with the complaint. On or about May 11, 1990, at or about 2:00 p.m., Clerk-Magistrate Dugan again requested "help" on the matter from the assistant district attorney. The assistant district attorney, in essence, replied that the matter would be handled in the usual, appropriate manner. Clerk-Magistrate Dugan then informed the assistant district attorney that the reclassification of the University of

Massachusetts Police Department and of the Clerk-Magistrates and Assistant Clerk-Magistrates was at stake, and that from now on she would not allow any more motions to continue at the request of the District Attorney's office, that all defaults would have to be removed in court and that the District Attorney would be notified of such removals. When the assistant district attorney requested that a clerk sign the complaints he was preparing, which were due in court that day at 2 p.m., she told him that there would be no clerk available until approximately 4:00 p.m.

- 3.2.7 In or about May 1991, Clerk-Magistrate Dugan called a Northampton city solicitor concerning a criminal complaint filed by a complainant against a police officer for the City of Northampton. Clerk-Magistrate Dugan told the city solicitor that the complainant, who was the brother of a former employee in the Northampton District Court Clerk's office, did not really want to press criminal charges and primarily wanted money to repair the damage done to his vehicle in the alleged incident. When the city solicitor informed Clerk-Magistrate Dugan that she would let the matter be settled by the Court, Clerk-Magistrate Dugan told her that if the city solicitor refused to pay the complainant three hundred dollars, she would issue a criminal complaint against the police officer. When the city solicitor reminded Clerk-Magistrate Dugan that the policy of the Northampton District Court was to have an outside magistrate preside over show cause hearings involving Northampton police officers and that the city solicitor would require Clerk-Magistrate Dugan to disqualify herself if she presided at the show cause hearing on this matter, Clerk-Magistrate Dugan told her she was making the wrong decision.

- 3.3 THEREFORE, the Committee alleges that by the foregoing conduct, Clerk-Magistrate Dugan has engaged in wilful misconduct in office; conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; and conduct that, to the extent it

continued on or after April 1, 1990, violated Supreme Judicial Court Rule 3:12, Canon 4(A), 4(C) and 4(E).

4.

FOURTH CHARGE

- 4.1 From the beginning of her tenure as Clerk-Magistrate in January 1983 until she was reassigned in June 1991, Clerk-Magistrate Dugan repeatedly demeaned, yelled at or insulted, or was discourteous, impatient, or rude, or acted in an undignified and unprofessional manner toward, members of the staff in the Clerk-Magistrate's office, judges, litigants, jurors, witnesses, lawyers, others in official dealings, and other members of the public.
- 4.2 In conjunction with the conduct described in paragraph 4.1, Clerk-Magistrate Dugan failed on numerous occasions to accord every person so entitled the right to be heard in a proceeding over which she was presiding.
- 4.3 In addition, Clerk-Magistrate Dugan habitually criticized alleged "weaknesses" of some members of her staff, causing these staff members to feel belittled, embarrassed, humiliated or offended. This conduct, along with the conduct described in paragraph 4.1, created an environment in the Clerk-Magistrate's office that was stressful, tense, unproductive and unprofessional.
- 4.4 The following are examples of the conduct described in paragraphs 4.1 to 4.3.
 - 4.4.1 In or about January 1983, on or about Clerk-Magistrate Dugan's second day in the Northampton courthouse as Clerk-Magistrate, Clerk-Magistrate Dugan instructed the staff during a staff meeting that they were not to be nice to people, that that was not their job.
 - 4.4.2 On an occasion approximately between January 1983 and approximately May 1983, in front of other people Clerk-Magistrate Dugan yelled and screamed at a clerk in the Northampton District Court for changing the spelling of the word "soo", as written by Clerk-Magistrate Dugan, to "so" when she typed a letter for Clerk-Magistrate Dugan.
 - 4.4.3 On an occasion between approximately January 1983 and approximately May 1983, in front of

other employees Clerk-Magistrate Dugan opened a desk drawer of a clerk in the Northampton District Court Clerk's office, threw the contents of the drawer on the floor and screamed at the clerk.

- 4.4.4 On or about February 24, 1983, at a show cause hearing conducted by Clerk-Magistrate Dugan at which a Northampton attorney, his client and the opposing party were present, Clerk-Magistrate Dugan accused the Northampton attorney of engaging in unethical conduct and stated that the attorney could be disbarred for such conduct.
- 4.4.5 On or about February 25, 1983, after a show cause hearing conducted by Clerk-Magistrate Dugan in which a Northampton attorney represented the complainant, Clerk-Magistrate Dugan advised the accused that he might have a claim for malicious prosecution against the complainant and advised him to get a lawyer for this and other reasons.
- 4.4.6 On or about March 17, 1983, at a show cause hearing conducted by Clerk-Magistrate Dugan, Clerk-Magistrate Dugan listened to the complainant, a police officer, present his position, asked the alleged violator if the officer was "an out and out liar," did not allow the alleged violator to present the complete side of his story, and issued a complaint.
- 4.4.7 On or about August 29, 1984, Clerk-Magistrate Dugan yelled and screamed at an administrative assistant in the Clerk-Magistrate's office. Clerk-Magistrate Dugan called the administrative assistant ungrateful and unloyal, slammed books down on the desk and then ran out of the office.
- 4.4.8 In or about 1985, Clerk-Magistrate Dugan refused to allow a clerk in the Clerk-Magistrate's office, to take lunch, even though Clerk-Magistrate Dugan knew that the clerk was a diabetic. As a result, the clerk left the office in the afternoon with "the shakes."
- 4.4.9 On or before May 1, 1985, Clerk-Magistrate Dugan informed two clerks in the Northampton

District Court Clerk's office, who had both applied for the position of Head Procedures Clerk, that she had chosen one of the clerks rather than the other because Clerk-Magistrate Dugan wanted to punish an administrative assistant, who was a friend of the clerk not chosen. Since Clerk-Magistrate Dugan could not punish the administrative assistant directly, Clerk-Magistrate Dugan said she would punish the clerk who was the administrative assistant's friend.

4.4.10 In or about August 1986, Clerk-Magistrate Dugan walked by the desk of a new clerk in the Clerk's office while he was on the phone, and demanded to know with whom he was speaking on the phone. When the clerk could not tell her the person's name, Clerk-Magistrate Dugan took the phone out of the clerk's hand and hung it up even though there was a person on the other end of the line. She ordered the clerk from his desk, brought him to the front of the office, and berated him in front of the people present in the clerk's office.

4.4.11 On an occasion sometime after September 25, 1989, at or prior to 9:30 a.m., a woman parked her car in the spot marked for the Clerk-Magistrate. Clerk-Magistrate Dugan parked her vehicle behind the woman's car so that the woman could not move her car. At or about 9:30 a.m. that same day, the woman came in to the Clerk-Magistrate's office, apologized to Clerk-Magistrate Dugan for parking her car in Clerk-Magistrate's spot, and asked Clerk-Magistrate Dugan to move her car. Clerk-Magistrate Dugan said she would move her car at 4:30 p.m. that day. Clerk-Magistrate Dugan did not move her car until approximately noon that same day.

4.4.12 On or about November 3, 1989, Clerk-Magistrate Dugan became upset when the secretary to the first justice of the Northampton District Court parked a court officer's truck in a judge's parking spot. Clerk-Magistrate Dugan yelled at the secretary on the street and threatened to have the truck towed. Clerk-Magistrate Dugan then parked her vehicle behind the court officer's truck so that the truck could not

be moved from the parking spot. After doing this, Clerk-Magistrate Dugan went to the secretary's office and screamed at her, refusing to listen to the secretary's explanation. Clerk-Magistrate Dugan's yelling could be heard in both the nearby courtrooms. The court officer came out of one of the courtrooms and asked Clerk-Magistrate Dugan to remove her car. When Clerk-Magistrate Dugan refused to do so, the court officer became upset and yelled at Clerk-Magistrate Dugan. Subsequently, Clerk-Magistrate Dugan issued a trespass notice dated November 16, 1989, in an attempt to prohibit the court officer from entering or remaining in the Clerk-Magistrate's office.

4.4.13 On or about November 9, 1989, in a show cause hearing conducted by Clerk-Magistrate Dugan concerning a complaint brought by a Northampton woman against a twenty-one year old man for contributing to the delinquency of the woman's fourteen year old daughter, Clerk-Magistrate Dugan refused to look at any evidence brought by the woman or to allow her to explain the facts related to the complaint. Clerk-Magistrate Dugan said the case was like several others she had seen, blamed the woman's daughter for the actions of the young man, and dismissed the complaint. When the woman asked if she could appeal the decision, Clerk-Magistrate Dugan told her she had no right to appeal.

4.4.14 On or about January 18, 1990, Clerk-Magistrate Dugan called a Procedures Clerk II in the Clerk-Magistrate's office, who was at home sick, regarding alleged problems in locating a particular file and told the clerk that she was suspended for three days as a result of these alleged problems.

4.4.15 On or about February 6, 1990, at a hearing conducted by Clerk-Magistrate Dugan, Clerk-Magistrate Dugan refused to allow the alleged violator to explain the map she had prepared in her defense against a speeding citation. Clerk-Magistrate Dugan shouted that the alleged violator was rude for interrupting her, that she did not like her, and that she found her guilty. Clerk-Magistrate Dugan told the alleged violator to sign on the line

marked "violator". When the alleged violator told her she wanted to appeal and that she did not want to be labelled a violator, Clerk-Magistrate Dugan shouted that she herself would sign it even if it was against the law.

4.4.16 On or after April 6, 1990, in a meeting in which Clerk-Magistrate Dugan was interviewing a Procedures Clerk II for a Grade 13 position that the clerk had applied for at Clerk-Magistrate Dugan's suggestion, Clerk-Magistrate Dugan informed the clerk that she did not get the position because the clerk had filled in for the first justice's secretary while the secretary was on vacation, and the clerk had been inconsiderate to her fellow employees by filling in for the secretary, and because the clerk was not "political" and would not get anywhere in the courthouse.

4.4.17 On or about May 23, 1990, at a show cause hearing conducted by Clerk-Magistrate Dugan, Clerk-Magistrate Dugan told a South Hadley girl and her mother that the girl could be sent to a detention hall or to Framingham where her jailmate would rape her and asked the girl whether she would like that to happen. At the same hearing Clerk-Magistrate Dugan continually interrupted the girl; at one point, Clerk-Magistrate Dugan found her "in contempt" for trying to respond to a comment made by the other party.

4.4.18 On or about May 24, 1990, at a show cause hearing conducted by Clerk-Magistrate Dugan, Clerk-Magistrate Dugan continually interrupted the complainants, a Northampton woman and her daughter, and did not allow them to fully present their position. Clerk-Magistrate Dugan continually asked them why they brought the complaint and badgered them to the point where the alleged violator's attorney interceded on the complainants' behalf.

4.4.19 On or about May 24, 1990, Clerk-Magistrate Dugan entered the first justice's chambers and shouted at the first justice because he had issued an order to all personnel that the purchasing or leasing of equipment and

supplies was to be made through the Head Administrative Assistant. Clerk-Magistrate Dugan told the first justice that the order was the most contemptible thing the first justice had ever done, and then left the first justice's chambers, slamming the door.

- 4.4.20 For additional actions on the part of Clerk-Magistrate Dugan toward the first justice which fall within Allegation 4.1, see Allegation 9, paragraph 9.10.
- 4.4.21 On or about November 30, 1990, when a complainant was in the Clerk's office to file three criminal complaints, Clerk-Magistrate Dugan was belligerent and disdainful toward the complainant. When the complainant asked Clerk-Magistrate Dugan a question related to one of the applications, Clerk-Magistrate Dugan responded by saying: "Grow up."
- 4.4.22 In or about early December 1990, Clerk-Magistrate Dugan yelled and screamed at a clerk, who was in her ninth month of pregnancy, when the clerk returned from the Probation Department where she had filled out medical leave papers with an administrative assistant in the Northampton District Court. Clerk-Magistrate Dugan told the clerk, "Whenever you lose the baby and it dies, you can turn around and sue [the administrative assistant] for all this."
- 4.4.23 On or about December 24, 1990, Clerk-Magistrate Dugan told a clerk in the Northampton District Court Clerk's office, "Why don't you go commit suicide." The clerk filed a grievance against Clerk-Magistrate Dugan as a result of this incident and the chief justice found for the clerk in a Memorandum and Order dated May 30, 1991.
- 4.4.23a On or about January 3, 1991, at a show cause hearing at which a Northampton woman was present on behalf of the complainants, Clerk-Magistrate Dugan was rude and abrupt to the Northampton woman and others present at the hearing. Clerk-Magistrate Dugan said she was the only one allowed to ask questions and refused to allow those present to ask any questions. When the defendant's mother insisted on asking a question, Clerk-

Magistrate Dugan had the woman removed from the room.

- 4.4.24 In a memorandum written by Clerk-Magistrate Dugan to an assistant clerk-magistrate dated February 15, 1991, Clerk-Magistrate Dugan stated: "your performance in Court Room #1 one day a week is slow and not up to par. Also your diction is not as good as [the other two assistant clerk-magistrates]. But then it never was. If you could articulate a little more so the Defendants could understand better I am sure it would be appreciated." The assistant clerk-magistrate, who is black, was upset by her comments and felt they had racist overtones.
- 4.4.25 On or about February 26, 1991, when a court officer and the first justice's secretary gave Clerk-Magistrate Dugan an order from the first justice to come to the courtroom, Clerk-Magistrate Dugan beat herself on the head, yelled and screamed at them, and said that it was going to look terrible in the Boston Globe when they put handcuffs on her and took her to the state hospital.
- 4.4.26 On or about April 19, 1991, at a show cause hearing concerning a dispute between neighbors which was conducted by Clerk-Magistrate Dugan, Clerk-Magistrate Dugan told an Amherst woman that she was neglecting her children, that she was an unfit mother, suggested to the other party that she circulate a petition to force the Amherst woman to move out or get the landlord to evict her, and told the Amherst woman that she would issue felony complaints against her children, ages 8, 5 and 3.
- 4.4.27 On or about April 23, 1991, Clerk-Magistrate Dugan told a procedures clerk II in the Clerk-Magistrate's office that the clerk could not do show cause hearings because Clerk-Magistrate Dugan did not like her voice, and that the clerk could not go into the courtroom because she did not dress appropriately. When the clerk asked her if it was discrimination not to allow the clerk to perform certain duties because Clerk-Magistrate Dugan did not like her voice or

dress, Clerk-Magistrate Dugan replied, "I guess it is."

4.4.28 On or about March 30, 1992, Clerk-Magistrate Dugan was rude, abusive and intimidating toward a volunteer working with the victim/witness staff in the domestic violence program in the office of the Hampden County District Attorney. Clerk-Magistrate Dugan ignored the victim who was escorted by the volunteer and, instead, cross-examined the volunteer and demanded that the volunteer tell her what charges should be brought.

4.5 THEREFORE, the Committee alleges that, by the foregoing conduct, Clerk-Magistrate Dugan has engaged in conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; conduct that, to the extent it continued after January 12, 1989, violated the chief justice's directives to Clerk-Magistrate Dugan dated January 12, 1989, and October 25, 1990; and conduct that, to the extent it continued on or after April 1, 1990, violated Supreme Judicial Court Rule 3:12, Canon 3(A)(2), 3(A)(3), and 3(A)(4), and 3(B).

5.

FIFTH CHARGE

5.1 Clerk-Magistrate Dugan has failed to comply with the laws of the Commonwealth, rules of court, and lawful directives of the several judicial authorities of the commonwealth.

5.2 The following are examples of the conduct alleged in paragraph 5.1.

5.2.1 Clerk-Magistrate Dugan made a practice of disposing of civil motor vehicle citations by requiring the alleged violators to carry out community service rather than pay an assessment made in accordance with G.L. c. 90C, § 3, and regulations adopted thereto, contrary to the provisions of G.L. c. 90C, §§ 3, 9, & 10 and Uniform Rule on Civil Motor Vehicle Infractions, at ¶ (b)(2). On information and belief, the following are examples of citations which were disposed of in this manner:

5.2.1.1 Court Docket No. 21854

5.2.1.2 Court Docket No. 9132

- 5.2.1.3 Court Docket No. 18866
- 5.2.1.4 Court Docket No. 18903
- 5.2.1.5 Court Docket No. 20134
- 5.2.1.6 Court Docket No. 63; Magistrate's hearing No. 1134/90

5.2.2 Clerk-Magistrate Dugan made a practice of unlawfully disposing of applications for the issuance of process related to criminal complaints at the show cause hearing for such applications by requiring the alleged violators to carry out community service. This practice is contrary to the Standards of Judicial Practice related to the Complaint procedure, particularly Standard 3:17, and contrary to M.G.L. c. 218, § 35A. The following are just some examples of the many applications which were disposed of in this manner:

- 5.2.2.1 Show Cause No. 2121/89
- 5.2.2.2 Show Cause No. 2050/89
- 5.2.2.3 Show Cause No. 2025/89
- 5.2.2.4 Show Cause No. 1976/89
- 5.2.2.5 Show Cause No. 1975/89
- 5.2.2.6 Show Cause No. 2513/89
- 5.2.2.7 Show Cause No. 2504/89
- 5.2.2.8 Show Cause No. 2482/89
- 5.2.2.9 Show Cause No. 1870/89
- 5.2.2.10 Show Cause No. 2537/89

5.2.3 In disposing of applications for the issuance of process related to criminal complaints in the manner described in paragraph 5.2.2 above, Clerk-Magistrate Dugan sometimes allowed the accused to carry out the community service by working in the Northampton Courthouse. The following are examples of applications which were disposed of in this manner:

- 5.2.3.1 Show Cause No. 2026/89
- 5.2.3.2 Show Cause No. 1274/88 (Juvenile)

5.2.4 On or about April 6, 1990, Clerk-Magistrate Dugan caused a notice for a show cause hearing, SC No. 570/90, to be sent out with respect to a criminal complaint against the defendant, despite the facts that a show cause hearing had already been held on April 3, 1990 at which the defendant failed to appear, and that another clerk had found

sufficient evidence had been presented and a summons was to issue as a result. On or about May 2, 1990, Clerk-Magistrate Dugan continued the matter generally and ordered the defendant to carry out 100 hours of community service.

- 5.2.5 On or about March 13, 1986, Clerk-Magistrate Dugan dismissed five criminal complaints which had been scheduled for show cause hearings on that date because she claimed there was no clerk available to conduct the hearings at the time they were scheduled.
- 5.2.6 By memorandum to the chief probation officer dated October 3, 1983 and copied to Clerk-Magistrate Dugan, the first justice authorized the chief probation officer to pull the files from the Clerk/Magistrate's office on all criminal cases which were due for discharge from probation and/or dismissal, as well as cases where extensions for payment had expired, and mark the same for initialling by the first justice. In the same memorandum the first justice authorized the chief probation officer to use whatever clerical personnel from the Probation office he deemed necessary to accomplish these tasks. By memoranda dated October 3, 1983, April 29, 1987, and February 26, 1991, Clerk-Magistrate Dugan restricted or prohibited the Probation staff from accessing files in the Clerk's office.
- 5.2.7 By letter dated March 27, 1989, from her attorney, Clerk-Magistrate Dugan informed the chief justice of the District Court that she would not comply with the chief justice's January 12, 1989 directive that all show cause and magistrate hearings conducted by her be recorded electronically, that a log of all such hearings be maintained, and that the electronic recordings and logs be delivered at the end of each business day to the presiding justice.
- 5.2.8 As reflected in a letter from the first justice to the chief justice dated December 18, 1989, Clerk-Magistrate Dugan did not comply with the chief justice's directive of January 12, 1989, that she tape all hearings conducted by her.

- 5.3 THEREFORE, the Committee alleges that, by the foregoing conduct, Clerk-Magistrate Dugan has engaged in wilful misconduct in office and conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute and which, to the extent it continued on or after April 1, 1990, violates Supreme Judicial Court Rule 3:12, Canon 2.

6.

SIXTH CHARGE

- 6.1 Clerk-Magistrate Dugan failed to diligently carry out her responsibilities by failing to conduct, or to cause to be conducted, magistrate's and show cause hearings; and by failing or refusing to allow the processing of small claims requests and payments and dismissals.

- 6.2 The following writings reflect and contain examples of the conduct alleged in paragraph 6.1.

6.2.1 On or about July 18, 1983, Clerk-Magistrate Dugan announced in a press release that no magistrate's hearings were to be scheduled, no show cause hearings on criminal matters were to be scheduled unless there was an emergency, that the number of small claims and civil actions processed would be strictly limited, and that only criminal actions stemming from arrests would be processed.

6.2.2 By memorandum to the chief justice dated March 12, 1986, Clerk-Magistrate Dugan announced that she would stop pulling files for processing of payments and dismissals.

6.2.3 By memorandum to her staff dated March 3, 1986, Clerk-Magistrate Dugan announced that "[n]o more Magistrate's hearings will be scheduled for awhile." In a letter to the regional administrative justice of the same date, Clerk-Magistrate Dugan in essence stated that magistrate's hearings could not be scheduled unless another assistant clerk was assigned to the Northampton District Court to cover the jury-of-six session.

6.2.4 In a newspaper article published in the Daily Hampshire Gazette on or before September 10, 1986, Clerk-Magistrate Dugan said that no hearings would be scheduled on new small

claims cases or on new criminal show cause or nonsupport cases until probably early 1987.

6.2.5 According to a memorandum written by an employee in the administrative offices of the District Court Department, dated July 23, 1991, from approximately August 1990, until approximately June 1991, small claims cases in the Clerk's office were not processed or scheduled for hearings because Clerk-Magistrate Dugan did not assign anyone to process these claims.

6.2.6 According to the same memorandum referred to in ¶6.2.5, the employee estimated that as of June 27, 1991, approximately 11,000 magistrate's hearings had not been scheduled. In his report the employee noted that Clerk-Magistrate Dugan had not provided the clerks responsible for scheduling the hearings a sufficient number of dates on which hearings could be held.

6.3 Upon information and belief, Clerk-Magistrate Dugan intentionally failed or refused to schedule magistrate's hearings as part of an effort to have additional staff assigned to the Northampton District Court Clerk's office.

6.4 THEREFORE, the Committee alleges that, by the foregoing conduct, Clerk-Magistrate Dugan has engaged in wilful misconduct in office; conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; conduct that violates G.L. c. 90C, § 3, and G.L. c. 218, § 22 and Uniform Small Claims Rules 2 and 3; and conduct that, to the extent it continued on or after April 1, 1990, violated Supreme Judicial Court Rule 3:12, Canons 2, 3(A)(5), and 3(B).

7.

SEVENTH CHARGE

7.1 Clerk-Magistrate Dugan failed to provide access to court records that, by law or court rule, were to be available to the public.

7.2 Between approximately June 25, 1990, and approximately October 26, 1990, Clerk-Magistrate Dugan repeatedly denied reporters from the Daily Hampshire Gazette newspaper access to some or all of the District Court documents which, by law or court rule, were to be available to the public.

- 7.3 THEREFORE, the Committee alleges that Clerk-Magistrate Dugan engaged in wilful conduct in office; conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; and conduct which violated Supreme Judicial Court Rule 3:12, Canons 2 and 3(A)(6).

8.

EIGHTH CHARGE

- 8.1 Clerk-Magistrate Dugan failed to work full time, failed to be present in the courthouse during ordinary business hours, did not devote her entire time during ordinary business hours to her duties as Clerk-Magistrate, and used court personnel and equipment during and after ordinary business hours to carry out personal business unrelated to the activities of the Northampton District Court Clerk-Magistrate's office.

- 8.2 The following are examples of the conduct alleged in paragraph 8.1.

- 8.2.1 In or about the time of the marriage of Clerk-Magistrate's daughter, one or more employees in the Clerk's office carried out substantial preparations for the wedding at Clerk-Magistrate's instruction during and after ordinary business hours, including but not limited to making arrangements for a bridal shower, arrangements for the wedding reception, and arrangements for fittings for the wedding gown.
- 8.2.2 In or about 1987 until approximately October 1988, one or more employees in the Clerk's office assisted Clerk-Magistrate Dugan in her position as executrix of an estate at Clerk-Magistrate's instruction during and after ordinary business hours, including but not limited to typing letters or other documents related to the estate and delivering letters or packages to other persons involved with the estate.
- 8.2.3 From approximately January 1983, until approximately June 1991, one or more employees in the Clerk's office performed personal errands for Clerk-Magistrate Dugan and assisted Clerk-Magistrate Dugan in her personal affairs from time to time at Clerk-Magistrate Dugan's instruction during and

after ordinary business hours, including but not limited to: taking Clerk-Magistrate Dugan's car for servicing or repair; taking Clerk-Magistrate Dugan's car to be washed; dropping off or picking up jewelry at various jewelry stores in Northampton; dropping off or picking up items of clothing at the place of business of a seamstress in Northampton; going to the bank on matters related to Clerk-Magistrate Dugan's personal affairs; dropping off or picking up packages at various stores; dropping off or picking up packages or documents at certain attorneys' offices; making appointments with Clerk-Magistrate Dugan's hairdresser; making arrangements for Clerk-Magistrate Dugan's personal parties; typing personal letters for Clerk-Magistrate Dugan; typing financial statements for Clerk-Magistrate Dugan, her family or friends; typing deeds for Clerk-Magistrate Dugan, her family or friends; typing documents related to the beauty salon Clerk-Magistrate Dugan owned or related to the real estate Clerk-Magistrate Dugan owned; and preparing and sending documents related to the Association of Clerks.

8.2.4 From approximately January 1983, until approximately June 1991, Clerk-Magistrate Dugan gave employees compensatory time off from their positions in the Northampton District Court Clerk's office when these employees carried out the tasks referred to in paragraphs 8.2.1 to 8.2.3 above after ordinary business hours.

8.2.5 From approximately January 1983, until approximately June 1991, Clerk-Magistrate Dugan habitually arrived after the Clerk's office opened at 8:30 a.m. and frequently left before the Clerk's office closed at 4:30 p.m.

8.3 Clerk-Magistrate Dugan's frequent failure to be present in the Clerk's office during ordinary business hours, and failure to inform the Clerk's office that she would be absent or to account for her absences, caused inconvenience and scheduling difficulties to litigants, police officers, the staff of the clerk's office and other courthouse personnel.

- 8.4 THEREFORE, the Committee alleges that, by the foregoing conduct, Clerk-Magistrate Dugan has engaged in conduct prejudicial to the administration of justice; conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; conduct that violated G.L. c. 218, §§ 15 & 79(2); and conduct that, to the extent it continued on or after April 1, 1990, violated Supreme Judicial Court Rule 3:12, Canons 2, 3(A)(5), 3(B), 4(B), and 5(B)(C).

9.

NINTH CHARGE

- 9.1 Clerk-Magistrate Dugan failed or refused to cooperate with, or to allow members of her staff in the Clerk-Magistrate's office to cooperate with, other employees in the courthouse when cooperation with these employees was reasonably necessary or beneficial to the administration of justice.
- 9.2 Throughout her tenure at the Northampton District Court Clerk's office, Clerk-Magistrate Dugan impeded reasonable cooperation between the Clerk's office and the Probation Department. The following are examples of the pattern of misconduct alleged in paragraph 9.1:
- 9.2.1 In or about September 1983, by undated document entitled "Clerk's Office" and signed by Clerk-Magistrate Dugan, Clerk-Magistrate Dugan directed her staff that during office hours they were not to mention the name of any employee who worked in the Probation Office or go to the Probation office without the prior approval of Clerk-Magistrate Dugan or, in her stead, the first assistant clerk-magistrate; refused to allow any probation employee or officer to come into the Clerk's office without her or the first assistant clerk-magistrate's prior approval; required all conversation or work with Probation to be conducted over the phone with one of the clerks in the Clerk-Magistrate's office only; and required that any files needed by Probation were to be pulled by Clerk-Magistrate Dugan or the first assistant clerk only.
- 9.2.2 By memorandum to the first justice of the Northampton District Court dated October 3, 1983, Clerk-Magistrate Dugan prohibited anyone other than the Clerk's staff from pulling files or being in the Clerk's office and stated that if the Probation office

wanted files they could come to the counter or call and request the files. By memorandum of the first justice to the chief probation officer on the same day, the first justice gave the chief probation officer and the Probation office authorization to pull files from the Clerk/Magistrate's office.

9.2.3 By memorandum to Staff and Probation office dated April 29, 1987, Clerk-Magistrate Dugan required that Probation office staff put in writing any request for a case to be brought forward, and that any requests or phone calls from Probation were to be directed to two clerks in the Clerk-Magistrate's office.

9.3 In or about 1984 or 1985, Clerk-Magistrate Dugan informed her staff that she was to be notified when any mail from a judge arrived for the first justice or for the Probation Department, and she instructed her staff members to open the identified mail so that she could read it, and she told her staff to say that it was opened by accident when it was delivered.

9.4 In or about July or August 1986, a clerk in the Clerk-Magistrate's office, acting on Clerk-Magistrate Dugan's instruction that only clerks were to bring files into the courtroom, refused to allow the court officer to take the files from the Clerk's office, which action caused the chief justice to come to the Clerk's office to get the files himself.

9.5 In or about April 1990, when a court officer informed Clerk-Magistrate Dugan that a clerk was needed in a courtroom, Clerk-Magistrate Dugan refused to send a clerk into the courtroom and told the court officer that "he [the judge] can shit in his hat. He can shit in his pants too, I'm going on vacation."

9.6 On or about February 4, 1991, at or about 12:40 p.m., Clerk-Magistrate Dugan did not go to a particular courtroom, even though the district court judge had made two requests for a clerk to assist her in the courtroom and Clerk-Magistrate Dugan was the only available clerk at that time. Clerk-Magistrate Dugan was on the telephone at the time the requests were made, and would not interrupt the call to come to the session.

9.7 On or about February 6, 1991, at approximately 3:00 p.m., a district court judge ordered Clerk-Magistrate Dugan into the courtroom to take a verdict; Clerk-

Magistrate Dugan came into the courtroom with her coat on, sat in the spectator section of the courtroom, and said in front of the jury, "Do we have a case in progress?", and then she slowly removed her coat and took the verdict.

- 9.8 On or about February 26, 1991, when a court officer informed Clerk-Magistrate Dugan that a district court judge was ready to begin the jury session, Clerk-Magistrate Dugan screamed at a court officer and went in to her office. At some point thereafter, the judge called the Clerk's office and asked that Clerk-Magistrate Dugan come to the jury session. Shortly thereafter, the judge received a telephone call informing her that Clerk-Magistrate Dugan had gone home sick, when Clerk-Magistrate Dugan was, in fact, in a hearing room on the first level of the courthouse.
- 9.9 By a memorandum to Staff dated February 26, 1991, Clerk-Magistrate Dugan prohibited the admittance of any "Court Officers or Probation or D.A. or newspaper behind the Counter," and by memorandum to the first justice dated April 1, 1991, restated the same prohibitions.

- 9.10 At numerous times approximately between January 1983 and June 1991, Clerk-Magistrate Dugan conducted herself in a manner which impeded constructive professional interaction between herself and the first justice. This conduct adversely affected the ability of the judge's lobby and the Clerk-Magistrate's office to work together. The following excerpts from correspondence provide examples or illustrations of her behavior and its effect:

- 9.10.1 By memorandum to the first justice dated August 18, 1988, Clerk-Magistrate Dugan stated: "I would think you might appreciate what I do and show me some small degree of respect."
- 9.10.2 By memorandum to the first justice dated February 15, 1989, Clerk-Magistrate Dugan stated: "The shortage of Clerk/Magistrates makes it impossible to go on without full cooperation from you."
- 9.10.3 By memorandum to the chief justice of the District Court dated July 13, 1988, regarding "Lack of Communication between the Presiding Justice and Clerk," Clerk-Magistrate Dugan criticized the first justice for giving her

orders and directives in writing or by messenger, stating she "never understood that to be 'communication'," citing the delivery by the first justice's secretary of a new schedule two months previous as "[t]he most horrendous example of his 'communication'," and stated that "[i]t is impossible for me to run an office effectively and efficiently if orders are given and schedules changed for the convenience of the Judge's personal needs. I write this letter as an apology for this Court not being as well run as it should be."

- 9.10.4 By memorandum to Clerk-Magistrate Dugan dated March 11, 1987, the first justice stated that "I do not appreciate the sarcastic and disrespectful memorandum I received from you on March 10, 1987 in connection with [use of the intercom systems to notify member of Clerk's staff]".
- 9.10.5 By letter to the chief justice dated December 11, 1986, Clerk-Magistrate Dugan stated: "We are going to have a disaster in this Court. I avoid [the first justice] as much as possible - to avoid emotional outbursts that are unbecoming a Judge - but I suggest that we are going to have trouble. Some incidents here are not unlike what I read of in the Globe. . . . I require no answer to this letter. I require no acknowledgment that you received it. Burn it. I doubt there is little you can do to alleviate the disaster that will befall him."
- 9.10.6 By letter to the chief justice dated February 4, 1987, and in response to Clerk-Magistrate Dugan's letter to the chief justice dated December 11, 1986, the first justice stated: "disaster may befall this court but it will not be because of my 'emotional outbursts', as they do not occur. I avoid contact with Clerk-Magistrate Dugan as much as possible, as she seems to prefer confrontation rather than cooperation. . . . [I] felt you should be aware of the exaggerations and outright distortions of the truth that appear in her correspondence."
- 9.10.7 By memorandum to the first justice dated December 8, 1986 regarding shortage of help,

Clerk-Magistrate Dugan stated: "If [a clerk in the Clerk-Magistrate's office] has a stroke or if [another clerk in the Clerk-Magistrate's office] has a stroke I shall hold you personally responsible. . . . You took the positions away. Disaster. . . . It would appear that you are deliberately doing everything you can to make the Clerk's office look bad."

- 9.10.8 By memorandum to the first justice dated December 10, 1986 regarding "Poor Management", Clerk-Magistrate Dugan stated: "Your structure is based on favoritism not job description."
- 9.10.9 By letter to the first justice dated October 23, 1986, Clerk-Magistrate Dugan stated: "Through you I am now instructing [the chief justice] that you cause the backlog and do not allow me to do my job. You take positions away from me and then you and [the chief justice] order me to do the work. . . . It is sophisticated sabotage. Take away the help and order her to do the work. . . . Your hobby appears to be to cripple me and then to criticize me. Whatever happened to judicial responsibility?"
- 9.10.10 By letter to the chief justice dated September 3, 1986, Clerk-Magistrate Dugan stated: "I believe that I have been responsible for accomplishing much of the above. I have done this in spite of [the first justice] - not because of him."
- 9.10.11 By memorandum to the first justice dated January 3, 1986, Clerk-Magistrate Dugan stated: "Your delays, your procrastination [sic], your ego and possessiveness of your power or lack of delegation is negligence and costly."
- 9.10.12 By memorandum to the first justice dated January 2, 1986, Clerk-Magistrate Dugan stated: "I am unable to carry on the work in the Clerk/Magistrate's office with continued harrassment [sic] and restrictions by you. . . I have called [the chief justice's] office for advice on how to get a restraining order or disciplinary hearing or injunctive relief. I have an appointment to see a

private attorney on Saturday to have someone represent me in dealing with your attorney."

- 9.10.13 By letter to the first justice dated August 7, 1986, Clerk-Magistrate Dugan stated: "You must calm down. Your emotional pitch, your red face and your threat of contempt of Court -- to all the ladies in my office - was frightening to hear about. I wish I had been present. I would have sought a criminal complaint against you for disturbing the peace and/or being a disorderly person. . . ."
- 9.10.14 By memorandum to the first justice dated February 12, 1986, Clerk-Magistrate Dugan stated: "The three Assistant-Clerks have been instructed by me not to take messages from you for me. . . . I . . . will deal with you directly or by your written instructions. I need written evidence that you keep changing your mind or that you don't."
- 9.10.15 By memorandum to the first justice dated June 20, 1985, Clerk-Magistrate Dugan criticized the continued use of a particular printer and stated that "[i]t appears to me that this [sic] a deliberate abuse of your discretion. Please try and hold up and not hinder us in our work."
- 9.10.16 In a memorandum to several judges dated March 11, 1985, Clerk-Magistrate Dugan stated that "[i]f we could address the problem [of staffing] immediately and fairly - [the first justice's] outbursts might cease and the public image of this Court might suffer less."
- 9.10.17 By letter to the first justice and Clerk-Magistrate Dugan dated September 7, 1984, the chief justice directed the first justice and Clerk-Magistrate Dugan to meet at least once a week at a predetermined, mutually agreeable time to discuss all pending issues which fall within their mutual court managerial interests. The meetings were discontinued due to Clerk-Magistrate Dugan's failure or refusal to attend.
- 9.10.18 By letter to the first justice dated January 19, 1984, Clerk-Magistrate Dugan stated that

"[d]eliberate Disorderly administration creates Bureaucratic 'favorites' of yours doing work that I must account for."

9.10.19 By letter to the first justice dated May 31, 1983, Clerk-Magistrate Dugan stated that "[i]t seems a pity that the dirty laundry of this office should be aired publicly by you, but I have no choice but to defend myself and explain the practices and the employee situation to [the chief justice, the chief administrative justice], the press, and to take court action for specific performance by you."

9.11 In addition to failing to cooperate with others in the Northampton courthouse, Clerk-Magistrate Dugan also failed at times to cooperate with others in the judicial system, and her failure to cooperate adversely affected the administration of justice. The following is an example of this conduct:

9.11.1 By letters dated October 10, 1985, and October 29, 1985, the chief justice requested that Clerk-Magistrate Dugan provide certain facts regarding an employee in the Northampton District Court Clerk's office. Clerk-Magistrate Dugan did not respond to these requests for information, and indicated in a telephone call from the chief justice between approximately October 10, 1985 and approximately December 11, 1985 that she would not respond. In order to gain this information, it was necessary for the chief justice to require the attendance of both the employee and Clerk-Magistrate Dugan at a hearing held on or about December 30, 1985.

9.12 THEREFORE, the Committee alleges that, by the foregoing conduct, Clerk-Magistrate Dugan has engaged in conduct prejudicial to the administration of justice; or conduct unbecoming a Clerk-Magistrate that brings the office of Clerk-Magistrate into disrepute; and conduct which, to the extent it continued on or after April 1, 1990, violates Supreme Judicial Court Rule 3:12, Canon 3(B).

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR THE COMMONWEALTH

In the case No. OE-0086

IN THE MATTER OF JANET ROWE DUGAN

O R D E R

The motion of the Committee on Professional Responsibility for Clerks of Court (committee) to impound documents has been heard by the Court and referred to the undersigned for final disposition.

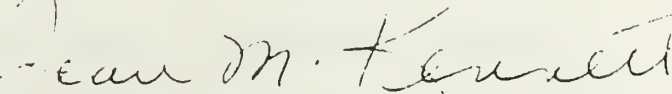
It is ORDERED as follows:

- (1) Impoundment of such documents as constitute court records is allowed for a period of ten (10) days from the date of the entry of this order.
- (2) In that ten-day period, special counsel for the committee and counsel for Ms. Dugan are to agree upon procedures to (a) safeguard such documents as are relevant to the proceedings against Ms. Dugan; (b) provide counsel for Ms. Dugan with the right to inspect and copy such documents as he may need to defend Ms. Dugan; and (c) provide public access to such documents

as constitute court records by ensuring that the records, or a copy thereof, are in their appropriate court or courts.

- (3) Counsel are to furnish the undersigned with a copy of their agreement as soon as it is prepared.
- (4) The undersigned will be available to confer with counsel, by telephone conference if necessary, to assist in compliance with the above.

By the Court Court (Greaney, J.),


Jean M. Kennett, Clerk

ENTERED: March 2, 1993

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR THE COMMONWEALTH

In the case No. OE-0086

IN THE MATTER OF JANET ROWE DUGAN

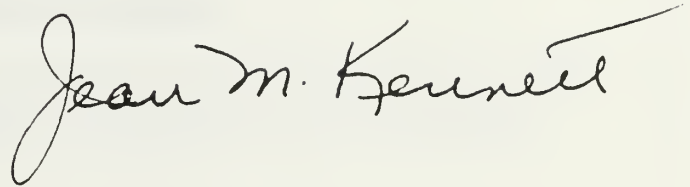
O R D E R

After consideration of the Formal Charges in this case and the other materials on file, and after hearing argument by counsel, a majority of the Court conclude that the Motion of the Committee on Professional Responsibility for Clerks of the Court to suspend Ms. Dugan from her duties as a Clerk-Magistrate pending resolution of Formal Charges should be allowed.

Accordingly, it is ordered that Janet Rowe Dugan be, and she hereby is, suspended forthwith from all duties and powers as a

Clerk-Magistrate, including the power to admit persons to bail,
until resolution of the Formal Charges or until further order of
this Court.

By the Court

A handwritten signature in cursive script, reading "Jean M. Kennett". The signature is written in dark ink and is positioned above the printed name.

Jean M. Kennett, Clerk

ENTERED: March 2, 1993

COPY

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT
COMMITTEE ON PROFESSIONAL RESPONSIBILITY
FOR CLERKS OF THE COURTS

RECEIVED
COMMITTEE ON

FEB 22 1993

PROFESSIONAL RESPONSIBILITY
FOR CLERKS OF THE COURTS

Docket No. 91-036

In the Matter of
JANET ROWE DUGAN

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ANSWER OF
JANET ROWE DUGAN

FIRST CHARGE

1. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

SECOND CHARGE

2. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

THIRD CHARGE

3. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

FOURTH CHARGE

4. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them. To the extent that the allegations contain reference to any alleged writing by Janet Dugan, she admits the existence of the quoted portion to the extent that the evidence establishes the language was contained in a document written or prepared by her and to the extent the quoted portion is accurately set forth, but she denies that any such writing is grounds for discipline or violative of any standard, Rule, Canon or statute.

FIFTH CHARGE

5. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

SIXTH CHARGE

6. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

SEVENTH CHARGE

7. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

EIGHTH CHARGE

8. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

NINTH CHARGE

9. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them. To the extent that the allegations contain reference to any alleged writing by Janet Dugan, she admits the existence of the quoted portion to the extent that the evidence establishes the language was contained in a document written or prepared by her and to the extent the quoted portion is accurately set forth, but she denies that any such writing is grounds for discipline or violative of any standard, Rule, Canon or statute.

TENTH CHARGE

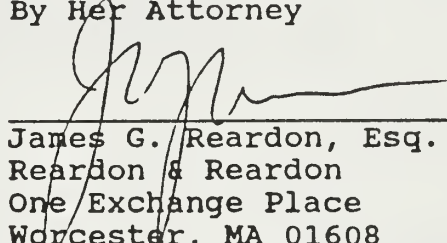
10. Janet Rowe Dugan denies the allegations in this charge and/or lacks sufficient information to admit or deny the allegations, and therefore denies them.

FURTHER ANSWERS

1. Janet Rowe Dugan, to the extent that any of the allegations are proven by the evidence, denies that any such matters constitute conduct that subjects her to any form of discipline or are a violation of any standard, Rule, Canon or statute.
2. The alleged charges cannot be a basis for discipline against Janet Rowe Dugan due to the lack of subject matter jurisdiction and should be dismissed.
3. To the extent that any of the factual allegations or alleged violations pre-date the existence of the Committee on Professional Responsibility for Clerks of the Courts and the establishment of any Rules and Canons governing clerks of courts, said allegations are not a basis for discipline or in violation of any standard, Rule or Canon and should be dismissed.
4. As to each charge, the alleged violations, both as to the facts and any standard, Canon, Rule or statute, are vague and overbroad and should be dismissed.
5. The formal charges and any alleged violations, both as to facts and any standard, Canon, Rule or statute, violate her rights under the Constitutions of the United States and the Commonwealth of Massachusetts and should be dismissed.
6. The formal charges are barred by any applicable statute of limitations and should be dismissed.
7. The formal charges are barred by laches and should be dismissed.
8. The formal charges should be barred and dismissed on principles of estoppel.
9. The allegations and formal charges against Janet Rowe Dugan are, in whole or in part, stale and untimely and should be dismissed.

10. The allegations and/or formal charges against Janet Rowe Dugan, in whole or in part, should be barred under principles of Res Judicata.

Janet Rowe Dugan
By Her Attorney



James G. Reardon, Esq.
Reardon & Reardon
One Exchange Place
Worcester, MA 01608
Tel: (508) 754-1111
BBO: 413720

CERTIFICATE OF SERVICE

I hereby certify that the within ANSWER OF JANET ROWE DUGAN was this day served upon the Committee on Professional Responsibility for Clerks of Courts by mailing the original, postage prepaid to Attorney Jane Kenworthy Lewis, Supreme Judicial Court, Committee for Professional Responsibility for Clerks of Courts, 1300 New Courthouse, Boston, MA 02108, and a copy of the same, postage prepaid to Francis D. Dibble, Esq., Bulkley, Richardson & Gelinas, 1500 Main Street, P. O. Box 15507, Springfield, MA 01115-5507.

Signed under the pains and penalties of perjury this 19th day of February, 1993.



James G. Reardon, Esq.

